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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/536,558

05/27/2005

Hans-Peter Fleischmann

PNL21447

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10/29/2008

Novak, Druce & Quigg LLP  
1300 I Street, N.W.  
Suite 1000, West Tower  
WASHINGTON, DC 20005

EXAMINER

IRVIN, THOMAS W

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

10/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/536,558	<b>Applicant(s)</b> FLEISCHMANN, HANS-PETER	
	<b>Examiner</b> THOMAS W. IRVIN	<b>Art Unit</b> 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the conduit having an end portion inserted in the drive shaft must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “64” has been used to designate both a drive shaft and a driven shaft. The examiner additionally notes that hollow shaft (18) appears to be the “drive shaft”, and that shafts (64, 66) appear to be the “driven shafts”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

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Misnumbered claims 10-19 have been renumbered 12-21. The examiner notes that for the remainder of the office action, the claims will be referred to by their **new** numbers.

Additionally, the examiner notes that a comma should be added in line 5 after “thereto” of claim 12.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Both claims 12 and 21 recite “... a fluid conducting means comprising at least one conduit having end portions thereof inserted in openings in said drive shaft...”. This claim appears to be incorrect, as figure 1 depicts the conduit (114) as being inserted in a “guide section (26)” and not the drive shaft (see par. 31).

Claim 13 recites “wherein said conduit is disposed within a bearing”. This claim appears to be incorrect, as figure 1 shows that the conduit (114) is not disposed within bearing (46), but rather, radially closer to the axis of the driven shaft than the bearing.

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Claim 14 recites that "an inner race of said bearing is mounted on a segment of said drive shaft portion and an end of said conduit is inserted into an opening in said segment". This claim appears to be incorrect, as figure 1 depicts the bearing (46) being mounted on a portion, neck (42), of the guide section (26), and the conduit (114) being inserted in the guide section (26) and not the drive shaft (see par. 31).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "said drive shafts" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "said drive shaft portion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

In Re claim 16, it is not clear where the "annular seal" is located as "each end thereof" is not referring back to any structure previously stated in the claim. The examiner believes this limitation to mean that there is an annular seal, gasket (116), at each end of the conduit (114), in which case, this claim appears to be incorrect, as figure 1 depicts the conduit (114) as being inserted in a "guide section (26)" and not the drive shaft (see par. 31).

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Claim 20, is dependent from canceled claim 1, and therefore renders the claim indefinite as is it not clear what limitations are encompassed by the claim. The examiner will assume the claim to be dependent on claim 12.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-16, 18, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by anticipated by Hattori (4,881,925).

In Re claim 12, with reference to fig. 2 and 3, Hattori discloses a transmission (CVT) having a pair of axially aligned driven shafts (55,56), a differential gear (Df) drivingly connected to said driven shafts, via the CVT, having a housing (2) including a fluid supply passageway (not labeled, see passageways in housing wall in upper right), and a drive shaft (14) disposed coaxially relative to said driven shafts and drivingly connect to said differential gear, via the CVT, provided with a pulley section (30) non-rotatably mounted thereon and axially displaceable relative thereto, and a portion including a chamber (37) having a displaceable wall section (38) engageable with said pulley section and a fluid supply passageway (59,64,65) communicating with said chamber, a fluid conducting means comprising at least one conduit (57) having end

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portions thereof inserted in an opening in said drive shaft and said differential gear housing, intercommunicating said fluid supply passageways.

In Re claim 13, the conduit is disposed radially within a bearing (not labeled).

In re claim 14, the inner race of the bearing is mounted on a segment, lower portion of stationary pulley half (33), of said drive shaft, and an end of said conduit is inserted into an opening in said segment.

In Re claim 15, the conduit is provided with a radially projecting portion, see the radially extending attachment to the housing.

In Re claim 16, the conduit has radial seals.

In Re claim 18, see piston (91).

In Re claim 19, the drive shaft has a spline connection with a pulley, which transmits torque to the differential gear through the CVT.

In Re claim 21, with reference to fig. 2 and 3, Hattori discloses a transmission (CVT) of a motor vehicle having a gear mechanism (Df) operatively connected to at least one drive axle, provided with a housing (2) having a fluid passageway (not labeled, see passageways in housing wall in upper right), and a drive shaft (14) drivingly connected to said gear mechanism, via the CVT, provided with a pulley section (30) non-rotatably mounted thereon and axially displaceable relative thereto, and a portion including a chamber (37) having a displaceable wall section (38) engageable with said pulley section and a fluid supply passageway (59,64,65) communicating with said chamber, a fluid conducting means comprising at least one conduit (57) having end



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portions thereof inserted in openings in said drive shaft and said gear mechanism housing, intercommunicating said fluid supply passageways.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS W. IRVIN whose telephone number is (571)270-3095. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas W. Irvin/  
Examiner, Art Unit 3657

/Robert A. Siconolfi/  
Supervisory Patent Examiner, Art  
Unit 3657